

III. Remarks

Responsive to the outstanding Examiner's Action, applicants have carefully studied the references cited by the Examiner and the Examiner's comments relative thereto. Favorable reconsideration of this application is respectfully requested in light of the above amendments and the following detailed discussion.

The Examiner objected to claim 9 under 37 C.F.R. 1.75(c) as being of improper dependent form for failing to further limit the subject matter of the previous claim. Applicants request that claim 9 be cancelled. Claim 10 has been amended to change its dependency from claim 9 to claim 6.

The Examiner rejected claims 1, 6, 7, 9-18, 22-26, and 101-103 under 35 U.S.C. 112, second paragraph, for being misdescriptive. Counsel for applicants discussed the amendment to claim 1 presented herein in a phone conference with the Examiner on December 15, 2003. It is believed that the amendment to claim 1 overcomes the Examiner's rejection.

In light of the amendment to claim 1, applicants believe amended claim 1 is patentable. Furthermore, claims 6, 7, 9-18, 22-26 and 101-103 each depend from amended claim 1, either directly or indirectly, and contain all of the limitations thereof. Therefore, because amended claim 1 is believed to be patentable and claims 6, 7, 9-18, 22-26 and 101-103 depend from amended claim 1, claims 6, 7, 9-18, 22-26 and 101-103 are also believed to be patentable.

The Examiner also rejected claims 1 and 22 under 35 U.S.C. 102(b) as being anticipated by Mikesell. Counsel for applicants also discussed the Mikesell reference in the phone conference with the Examiner on December 15, 2003. In the phone

conference, counsel for applicants noted that Mikesell does not teach a shelf having a surface and a barrier including two upwardly turned portions. As Mikesell fails to teach all of the elements of amended claim 1, applicants respectfully submit that claim 1 is patentable over the reference. Claim 22 depends from amended claim 1 and contains all of the limitations thereof. Therefore, because amended claim 1 is believed to be patentable and claim 22 depends on amended claim 1, claim 22 is also believed to be patentable.

The Examiner also rejected claims 1, 6, 7, 9-18, 22-26 and 101-103 under 35 U.S.C. 103(a) as being unpatentable over Schilling in view of Hart and Potchen. As discussed with the Examiner in the phone conference of December 15, 2003, none of the references teach two upwardly turned portions integrally formed from the surface. For example, Fig. 2 of Schilling shows an upturned edge that has been attached to the surface 15. Fig. 2 of Potchen also shows attaching edges to the surface 2. And Fig. 3 of Hart shows an upturned edge not constructed of the same material as the surface based upon the cross-hatching.

In light of the above, applicants respectfully submit that amended claim 1 is patentable over the cited references. Further, claims 6, 7, 9-18, 22-26 and 101-103 each depend from amended claim 1, either directly or indirectly, and contain all of the limitations thereof. Therefore, because amended claim 1 is believed to be patentable and claims 6, 7, 9-18, 22-26 and 101-103 depend from amended claim 1, claims 6, 7, 9-18, 22-26 and 101-103 are also believed to be patentable over the cited references.

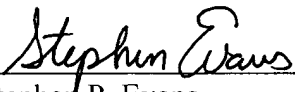
Counsel for applicants appreciates the courtesies extended by the Examiner in the December 15, 2003 phone conference in which the Examiner recognized the references

discussed above were not previously provided to counsel for applicant and the Examiner's agreement to remove the finality of the Action to allow applicants to respond.

In view of the above amendments and remarks, it is believed the amended claims of record now define patentable subject matter over the art of record. Therefore, the application appears to be in condition for allowance. Accordingly, an early Notice of Allowance is respectfully requested.

Should the Examiner wish to modify any of the language of the claims, applicants' attorney suggests a telephone interview to expedite the prosecution of the application.

Respectfully submitted,

  
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Stephen P. Evans  
Registration No. 47,281

ATTORNEYS  
Marshall & Melhorn, LLC  
Four SeaGate - 8th Floor  
Toledo, Ohio 43604  
(419) 249-7100 (main)  
(419) 249-7138 (direct)  
(419) 249-7151 (fax)